RESTRICTION

Claims 2 and 33 through 85 are subject to a restriction requirement under 35 U.S.C. §121. The Action identifies a restriction to six groups of claims. Applicant hereby elects Group I, claims 2, 33, 34, 68, 69 and 71 through 85, with traverse, for continued prosecution. Claims 35 through 67 and claim 70 have been cancelled.

TRAVERSE

Every requirement to restrict has two aspects, (1) the reasons (as distinguished from the mere statement of conclusion) why the inventions *as claimed* are either independent or distinct, and (2) the reasons for insisting upon restriction therebetween. MPEP § 808. [Emphasis in the original]. With regard to the first aspect, the action fails to provide a reason as to why the inventions identified in the Official Action are distinct.

With regard to the second aspect, the reasons under MPEP § 808 given by the Examiner for insisting upon exercising his authority under 35 U.S.C. § 121 to require restriction must be reasons approved by the Commissioner. The reasons approved by the Commissioner are set out in MPEP § 803: (1) the inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i); and (2) there must be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 806.04(a)-(j), § 808.01(a) and 808.02). Examiner must provide reasons and/or examples to support conclusions. MPEP § 803.

For purposes of the initial requirement, a serious burden on the examiner may be shown, *prima facie*, if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in MPEP § 808.02. That *prima facie* showing may be rebutted by appropriate showings or evidence by the applicant. MPEP § 803. Applicant respectfully asserts that the Examiner has failed to make a *prima facie* case that restriction is required. The Official Action to which this reply is responsive provides no reason

requirements of MPEP § 803 have not been met.